

## **REMARKS**

In the Restriction Requirement mailed April 20, 2005, the Examiner restricted claims 1-22 into the following three groups:

- I. Claims 1, 4-6, 8-17 and 22, drawn to an isolated nucleic acid, constructs and vectors comprising it, and cells, plants and seeds transformed with it. Applicants note that the Restriction Requirement includes Claim 2 within Group I. However, Claim 2 describes “An isolated nucleic acid sequence comprising an antisense sequence to the first nucleic acid sequence of Claim 1,” and as such, likely was intended to be included within Group II;
- II. Claims 2-3 and 18-21, drawn to siRNA and cells and plants transformed with it; and
- III. Claim 7, drawn to a polypeptide.

(Restriction Requirement, page 2). Applicants herein elect, without traverse, to prosecute the claims of Group I (Claims 1, 4-6, 8-17 and 22). Applicants also herein cancel Claims 2-3, 7, and 18-21 in order to further their business interests and the prosecution of the present application, yet without acquiescing to the Examiner’s arguments, and while preserving the right to prosecute the canceled (or similar) claims in the future.

The Examiner further states, “Upon election of a Group, Applicant is additionally required to select a single nucleotide sequence or amino acid sequence for said group, as appropriate. This requirement is not to be construed as a requirement for an election of species, since each nucleotide and amino acid sequence is not a member of single genus of invention, but constitutes an independent and patentably distinct invention.”

Restriction Requirement, page 2. The Applicants now select SEQ ID NO: 3 for initial prosecution within Group I. The Applicants further note that the remaining non-elected sequences will be examined should the elected sequence be found allowable.

As such, Claims 1, 4-6, 8-17 and 22 are pending and under examination following entry of Applicant's response to the outstanding Restriction Requirement.

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